

**HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DEPARTMENT[605]**

Adopted and Filed

Rule making related to transfer of emergency response duties

The Department of Homeland Security and Emergency Management hereby rescinds Chapter 100, “Mission of Commission,” and Chapter 101, “Operations of Commission,” and amends Chapter 102, “Emergency Planning Districts,” and Chapter 103, “Local Emergency Planning Committees,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 30.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 29C and 30.

Purpose and Summary

The rescissions and amendments are intended to implement 2017 Iowa Acts, Senate File 351. Senate File 351 eliminated the Iowa Emergency Response Commission and placed the associated responsibilities of the Commission under the purview of the Department. This transfer of duties does not adversely impact the ability of the state to meet the requirements set forth in United States Code Title 42, Chapter 116, Emergency Planning and Community Right-to-Know Act (EPCRA).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 3, 2018, as **ARC 3531C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on February 7, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee’s

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on April 4, 2018.

The following rule-making actions are adopted:

ITEM 1. Rescind and reserve **605—Chapter 100**.

ITEM 2. Rescind and reserve **605—Chapter 101**.

ITEM 3. Amend rule 605—102.1(30) as follows:

605—102.1(30) Requirement to designate, and organization of, emergency planning districts. The ~~Iowa emergency response commission (IERC) department~~ is required to designate emergency planning districts. A local emergency planning committee is appointed by the ~~IERC department~~ for each emergency planning district. The local emergency planning committee shall be responsible for the implementation of Emergency Planning and Community Right-to-Know Act (EPCRA) activities in each of the emergency planning districts including facilitating preparation and implementation of emergency planning for the emergency planning district.

ITEM 4. Amend rule 605—102.3(30) as follows:

605—102.3(30) Application to modify districts. Two or more local emergency planning committees with commonality of interests may petition the ~~IERC department~~ to amend, modify, or combine their districts. Petitions shall specify the geographical district requested, the reasons for the change, the benefit to the public by the designation of the proposed geographical district, and the proposed date for the change in designation.

ITEM 5. Amend **605—Chapter 102**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 29C and 30 and 1992 Iowa Acts, ~~chapter 1139~~.

ITEM 6. Amend rules 605—103.1(30) to 605—103.7(30) as follows:

605—103.1(30) Requirement to appoint local emergency planning committees (LEPC) (LEPCs).

103.1(1) Purpose. The ~~Iowa emergency response commission (IERC) department~~ is required to appoint members to local emergency planning committees. An LEPC is appointed for each of the emergency planning districts established in 605—Chapter 102.

103.1(2) Representation. As a minimum, each LEPC should be comprised of a representative from each of the following groups or organizations:

- a. and b. No change.
- c. ~~Civil defense~~ Emergency management personnel,
- d. to l. No change.

605—103.2(30) Committee Local emergency planning committee (LEPC) members.

103.2(1) Appointment of local emergency planning committees. Nominations to the an existing LEPC shall be made by the ~~local emergency management commission, established under Iowa Code section 29C.9, LEPC~~ and shall be subject to review and appointment by the ~~IERC department~~. ~~To the extent possible, membership of the LEPC shall be composed of members of the local emergency management commission.~~ Vacancies on the LEPC shall be filled in accordance with this subrule.

103.2(2) No change.

103.2(3) Member changes. The ~~IERC department~~ may revise the appointments made as it deems appropriate. Interested persons may petition the ~~IERC department~~ to modify the membership of an LEPC.

605—103.3(30) Local emergency planning committee (LEPC) duties.

103.3(1) to 103.3(3) No change.

103.3(4) The LEPC shall designate an official to respond to requests for information from the public for material safety data sheets, chemical lists, chemical inventory forms, emergency response plans, and toxic chemical releases forms. The information, including minutes of the LEPC and related committee actions, shall be available to the public during normal working hours at a location designated by the LEPC. (42 U.S.C. 11044(a))

103.3(5) The LEPC shall prepare an emergency plan for the district and shall review and revise as necessary the emergency plan at least annually. Both the initial emergency plan and any updates or revisions shall be submitted by the LEPC to the IERC department in accordance with ~~subrule 103.4(2)~~ rule 605—103.4(30). (42 U.S.C. 11003(a), 42 U.S.C. 11003(e))

103.3(6) to 103.3(8) No change.

103.3(9) The LEPC shall annually publish notice that emergency response plan, material safety data sheets, and inventory forms have been submitted and how the public can obtain access to the material for review. (42 U.S.C. 11044(b))

605—103.4(30) Emergency response plan development. The IERC department recognizes that emergency planning includes more than chemical release planning. The chemical release planning required by this chapter and EPCRA shall be included in the comprehensive emergency planning conducted by the local emergency management commission as required by Iowa Code chapter 29C and planning standards of the Iowa homeland security and emergency management department.

605—103.5(30) Local emergency planning committee (LEPC) office. The LEPC shall designate a local government office that will serve as the focal point for receiving nonemergency notifications from facilities that are subject to the law. This office shall also be the depository for material safety data sheets, chemical lists, chemical inventory forms, emergency response plans, and toxic chemical releases forms and a point of contact for the public regarding community right-to-know inquiries, and the office of record for minutes of the LEPC meetings and related committee actions.

605—103.6(30) Local emergency response committee (LEPC) meetings. The LEPC shall meet as frequently as deemed necessary by the chair until the local emergency operations plan is developed and concurred with by the joint administration and reviewed by the IERC department. Subsequent to plan approval, the LEPC is required to meet at least annually to review emergency response procedures, emergency plans and ensure the actions required are properly administered within the local emergency planning district.

605—103.7(30) Local emergency response plan submission. After completion of the initial emergency response plan and any subsequent revisions thereto, the LEPC shall submit a copy to the IERC department. The IERC department shall review the submission and make recommendations to the LEPC on appropriate revisions that may be necessary to comply with provisions in 42 U.S.C. 11003(c) and state planning standards in 605—Chapter 7 to ensure coordination with emergency response plans of other emergency planning districts, the state of Iowa, and adjacent states. To the maximum extent practicable, the review shall not delay implementation of the plan or revisions thereto. All plans shall be submitted annually by ~~October 17~~ August 1.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/28/18.